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ABSTRACT

This paper analyzes three higher education grant programs in South Dakota: the Indian Education Grant; the Student Incentive Grant (SIG); and the Tuition Equalization Grant (TEG). The Indian Education Grant was created in 1949 by the legislature to provide 30 higher education scholarships for Indians. Since its inception, the Indian Education Grant has grown 1,246 percent, while higher education appropriations have grown 8,034 percent. Several administrative changes were made to the program, including not limiting the number of grants awarded yearly; establishing a cap of $250 per student per semester; shifting the responsibility of determining student eligibility from the Board of Regents to the Bureau of Indian Affairs; and allowing Indian students enrolled only in public institutions to receive grants. The most significant aspect of this program is a history of erratic federal funding. On the other hand, equal legislative appropriations to the SIG and TEG have become routine. Both programs assist in providing financial assistance to any eligible student who attends South Dakota postsecondary and higher education institutions. Both programs limit the size of grants awarded yearly to between $100 and $600. Only the TEG limits grants to those students attending certain private institutions in South Dakota. Although all three programs award grants based on financial need, the SIG and TEG differ from the Indian Education Grant in how they are administered and funded. This paper suggests that the SIG and TEG programs should be combined to provide grants of meaningful amounts to needy students. (LP)

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SOUTH DAKOTA LEGISLATIVE RESEARCH COUNCIL

ISSUE MEMORANDUM

ISSUE MEMORANDUM 92-7

INDIAN EDUCATION, STUDENT INCENTIVE AND TUITION EQUALIZATION GRANTS

For many years the state of South Dakota has offered to its residents attending institutions of higher education within the state three separate and distinct grant programs. These grants, in order of their longevity, are known as the Indian Education Grant, the Student Incentive Grant, and the Tuition Equalization Grant. This paper presents a history of these three scholarship programs.

Since their inceptions, the most significant changes in the Student Incentive and Tuition Equalization Grants from one year to the next have been in the amounts of money appropriated by the Legislature for the purposes of the respective grants. The Indian Education Grant, on the other hand, has undergone considerable change over the years.

Created by the Legislature in 1949, the Indian Education Grant (also known as the Indian Scholarship), is the grant with the most erratic funding history. The original legislation (1949 Session Law Chapter 66) directed the Board of Regents to "provide thirty (30) scholarships each year for persons of at least one-fourth Indian blood" to attend "State Educational Institutions upon compliance with all of the requirements required. . . for admission." The money was to "provide for free tuition and fees required in the completion" of the students' courses.

For the first two years of the program, $5,000 was appropriated each year, which would average $166.67 per scholarship. This $5,000 appropriation compared with a total appropriation for the Board of Regents' institutions of $3,070,566 for Fiscal Year 1950. For Fiscal Year 1993, a total of $67,300 ($17,300 of which was on an emergency basis for FY92) was appropriated for Indian Scholarships, compared with a total budget for the Board of Regents of $249,750,240. Thus, while the Indian Scholarship Program has grown 1,246 percent in 43 years, higher education appropriations overall have grown 8,034 percent. The following table, Table 1, gives the history of appropriations for Indian Scholarships.

Table 1

INDIAN SCHOLARSHIPS

FISCAL YEAR	LEGISLATIVE APPROPRIATION
1950, 51	$ 5,000
1952--57	$15,000
1958, 59	$22,500
1960--67	$42,000

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Table 1, continued:

FISCAL YEAR	LEGISLATIVE APPROPRIATION
1968--78	$21,000
1979	$51,000
1980	0
1981	$51,000
1982--90	0
1991	$50,000
1992	$17,300
1993	$50,000

As mentioned previously, the Legislature's original intent was to provide from the money appropriated 30 grants to "persons of at least one-fourth Indian blood". In 1951, the number of grants per year was raised to 50. In 1959 it was again raised to 75, at which time a cap of $280 per student per year was established. Today, there is no statutory cap on the number of grants which the Board may award, but there is a cap of $250 per student per semester. The number of Indian Scholarship recipients was: 69 in fall 1990; 82 in spring 1991; 17 in summer 1991; 35 in fall 1991; and 33 in spring 1992.

Another point of the program's evolution is in the qualification of the student recipients. Now, according to SDCL 13-55-14, the Board may deem eligible a "person who is a resident of this state and who is an enrolled member of a federally recognized Indian tribe whose reservation is located in this state". This puts less of an administrative burden upon the Board of Regents because it is the tribes and the Bureau of Indian Affairs who establish tribal enrollment standards. The Board need merely require proof of certification as an enrolled member, rather than investigate family backgrounds of applicants.

One very significant element of eligibility criteria is found in SDCL 13-55-14.2, which was enacted in 1990. While the original 1949 legislation was aimed at students in "[s]tate [e]ducational [i]nstitutions", the Legislature has apparently interpreted this over the years in such a way as to restrict the scholarships to students enrolled in institutions under the jurisdiction of the Board of Regents. This means, for example, that a student at Sinte Gleska or any of the other tribal colleges would not be eligible for this program.

A further wrinkle comes in the treatment that scholarship programs such as this have received over the past few years in the current federal administration. The U.S. Department of Education has maintained that such programs targeted to benefit students of a particular race are discriminatory, if not unconstitutional. The Bush Administration used this argument last year as the rationale for removing from its budget federal funding for ethnic- or race-targeted scholarship programs, even though such programs had not been specifically tested in the courts. The concept has not been tested in South Dakota's Supreme Court either.

It's perhaps the confusion among supporters of the Indian Scholarships, both in and out of the Legislature, that has caused problems over the years. A recent effort at securing additional funding for grants to non-Indian students at the tribal colleges become entangled with the traditional Indian Scholarship concept and both

were lost. This was the case in the 1991 Legislature, and there was still some confusion in 1992.

The other two grant programs, the Student Incentive Grant and the Tuition Equalization Grant, are found in SDCL chapters 13-55A and 13-55B, respectively. For years the Legislature has appropriated equal amounts of money to each grant program, to the point where they've become "routine" appropriations.

The older of these two programs, the Student Incentive Grant (SIG), goes back to 1974 and congressional action. According to The Federal Guide, SIG was created to assist "states in providing grants to eligible students who attend postsecondary schools and have substantial financial need". All 50 states as well as the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands (the Republic of Palau) participate in this program and receive federal appropriations.

Unlike the Indian Scholarship program, SIG is administered by the Department of Education and Cultural Affairs. Probably the most significant aspect of that fact is that this means SIG is administered by an agency which promulgates rules according to South Dakota's Administrative Procedures Act for the purpose of administering the program. The Board of Regents has a longstanding tradition of not promulgating rules for any of its programs. (Instead, the Board uses "policies". These are different from administrative rules, particularly in that they are not reviewed by the Legislature's Rules Review Committee.)

According to SDCL 13-55A-2(3), to be eligible to receive a SIG, a student must be a South Dakota resident "enrolled in an eligible institution in a course of study on at least a half-time basis, as certified by the institution" and in financial need. An "eligible institution" is, basically, any post-secondary school in South Dakota. For the 1991-92 school year, there were 28 institutions participating ranging from South Dakota State University to Sinte Gleska to Augustana to the Stenotype Institute. SIG awards are limited to no more than $600 per year and no less than $100, with the total award for the academic year distributed equally among the semesters at the beginning of the semester. In the 1990-91 school year there were 863 recipients of a total state and federal pool of $317,890. That pool broke down to $167,890 federal and $150,000 that was appropriated from the state general fund. The state money is awarded only to students attending the six Regental institutions.

In order to receive federal allotments, a state's expenditures for SIGs may not fall below the average of its preceding three fiscal years. Allotments by the state to participating institutions are based upon a formula that takes into account the institution's percentage of the total of all participating institutions' average Pell grant (aka the Basic Educational Opportunity Grant, or BEOG, a federal grant to needy students) expenditures from the second, third, and fourth preceding school fiscal years.

Quite unlike the SIG, the Tuition Equalization Grant, or TEG, is wholly a South Dakota creature. Simply put, this grant is for students attending certain private institutions in South Dakota. SDCL 13-55B-1(1) defines an eligible private institution as one "operated privately and. . . accredited by the North Central Association of Colleges and Secondary Schools accrediting agency based on their requirements as of April 1, 1969." When Huron College was sold in the late 80s, a provision was added to law to the effect that an "institution. . . accredited. . .

as of January 1, 1987, shall continue to be considered an accredi ted private institution". Thus, in the 1990-91 school year the total pool of $150,0 0 was split among 677 students at the following seven institutions: Augustana Col ege, Dakota Wesleyan University, Huron College, Kilian Community College, Mount Ma ty College, Presentation College, and Sioux Falls College.

Like SIGs, there are statutory limits on the size of grants award ed as TEGs. The range is $100 to no more than $250 per student per year. While SIGs are awarded to the institution and then distributed to the students, TEGs are paid directly to the students. Critics of the TEG program in the past have charged that it is unconstitutional, claiming that it is governmental support of religious institutions. Supporters of the program maintain that it benefits the s tate because the students participating might otherwise be attending sta te-supported institutions.

Recipients of TEGs are statutorily prohibited from being eligible f or SIGs. In addition, recipients of Indian Scholarships, because they must be enrolled in Regental institutions, cannot qualify for TEGs. There is nothing that prohibits a recipient of an Indian Scholarship from also receiving a SIG, assuming the student has the financial need after taking into account whichever grant was rec eived first.

The one thing the three programs definitely have in common is that all three are awarded on financial need; that is, after the students applying meet the initial, separating criteria, (Indian or non-Indian, private school or public) some sort of means test is applied to further winnow the pool of applicants.

Another similarity among the programs, though, is that their supporters tend to say the same thing when called upon to defend their favorite program. That argument is that these awards make the difference between a student's attending or not attending post-secondary education. This argument is perhaps most interesting in the case of TEGs, which have a maximum award of just $250 per student per year. If that alone were the sole criterion for determining a program's validity, the SIG would win out because of its $600 per year maximum. TEG supporters say that were it not for TEG, a considerable burden would be added to that of the state's public universities. Actually, if all 675 or so TEG recipients were to attend Regental institutions, they would comprise a very small portion of the more than 22,000 students at public universities in South Dakota.

The following table, Table 2, shows a history of state general fund appropriations for the three programs.

Table 2

A HISTORY OF STATE APPROPRIATIONS FOR
STUDENT GRANT PROGRAMS

FISCAL YEAR	INDIAN SCHOLARSHIPS	TUITION EQUALIZATION GRANTS	STUDENT INCENTIVE GRANTS
1978	$0	$0	$0
1979	$51,000	$0	$175,000
1980	$0	$175,000	$210,254
1981	$51,000	$100,000	$0
1982	$0	$0	$100,000

Table 2, continued:

1983	$0	$100,000	$0
1984	$0	$100,000	$0
1985	$0	$100,000	$0
1986	$0	$200,000	$100,000
1987	$0	$150,000	$150,000
1988	$0	$150,000	$150,000
1989	$0	$150,000	$150,000
1990	$0	$150,000	$150,000
1991	$50,000	$150,000	$150,000
1992	$17,300	$150,000	$150,000
1993	$50,000	$191,350	$191,350

In closing, its worth mentioning that perhaps the SIG and TEG programs should be combined. At the same time the funding pots are melded, the grant amounts could be revised. Thus, the Legislature could be providing grants of meaningful amounts to needy students, a concept with which the founders of the two programs would likely agree.

This issue memorandum was written by Mark Zickrick, Principal Fiscal Analyst for the Legislative Research Council. It is designed to supply background information on the subject and is not a policy statement of the Legislative Research Council.

August 18, 1992